

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHELL S. SIMPSON, WARD S. FOSTER,
and KRIS R. LIVINGSTON

Appeal 2008-2202
Application 10/033,148
Technology Center 2600

Mailed: August 5, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on February 21, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the

Appeal 2008-2202
Application 10/033,148

application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF, APPEALED CLAIMS

Appellants have not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims in the Brief: 16 and 26. The rejected claims that have not been appealed and/or argued for appeal are claims 11-15, 17, 24, 25, and 27.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

Appeal 2008-2202
Application 10/033,148

Accordingly, it is **ORDERED** that the application is returned to the

Examiner:

- 1) to have applicants a paper canceling claims 11-15, 17, 24, 25, and 27;
- 2) to rewrite claims 16 and 26 in independent form; and
- 3) upon entry of the paper, to return the application to the Board for the consideration of appealed claims 16 and 26..

tdl

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400